

REMARKS

Claims 1-19 are pending in the application. Favorable reconsideration of the application, as amended, is respectfully requested.

I. ALLOWABLE SUBJECT MATTER

Applicant again acknowledges with appreciation the indicated allowability of claims 4-6.

II. REJECTION OF CLAIMS 1, 7, 13 AND 19 UNDER 35 USC §102(b)

Claims 1, 7, 13 and 19 remain rejected under 35 USC §102(b) based on *Boothe et al.* Applicant respectfully requests reconsideration of the maintaining of this rejection for at least the following reasons.

Applicant previously argued how *Boothe et al.* does not teach or suggest that when the elastic member striding over the first pad and the second pad is cut off, an interval between the first pad and the second pad is shortened so as to reduce a shrinking force of a portion of the elastic member between the first pad and the second pad.

The Examiner takes issue with such argument, however. Specifically, in the sentence bridging pages 3-4 of the Office Action, the Examiner argues that the elastic in *Boothe et al.* is running along a tangent of the surface of the next arriving pad and contacts the same prior to the cut off as depicted in Fig. 1. The Examiner indicates that *clearly the gap is closed or shortened between the first pad and the second pad when the cutting operation is taking place.*

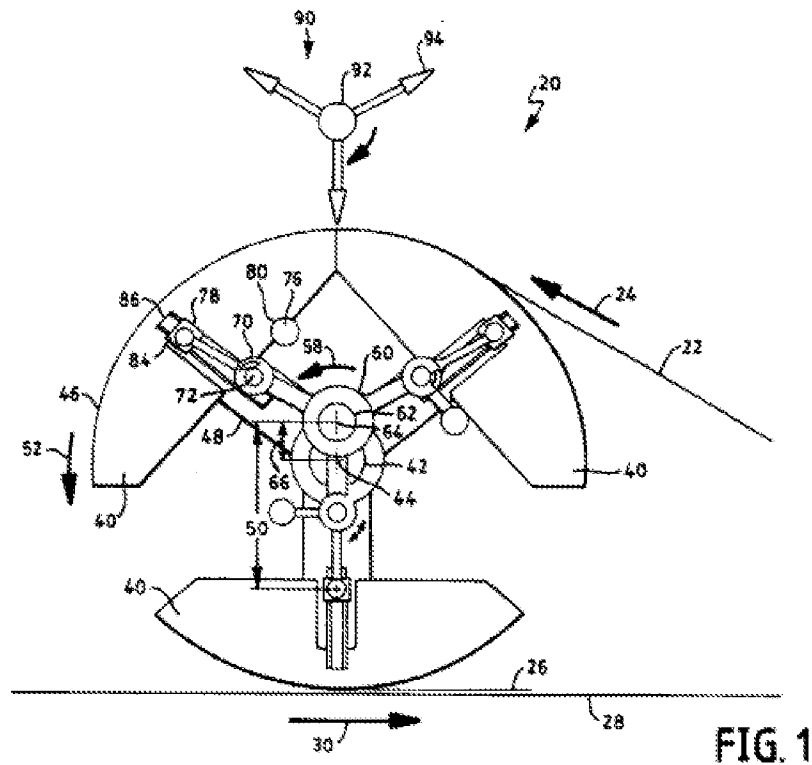


Fig. 1 of *Boothe et al.*

Referring to Fig. 1 of *Boothe et al.* (reproduced above), the Examiner appears to interpret *Boothe et al.* as teaching the elastic is received by a transfer segment 40 (pad) prior to the elastic arriving at the knife roll 90 (cutting station). Applicant would agree with such interpretation. However, the Examiner further interprets *Booth et al.* as teaching that *since the pads must be decelerating as they approach the knife roll 90, the gap between transfer segments 40 must be closed or shortened when the cutting operation is taking place.*

Applicant notes that claim 1 requires that the interval between the first pad and the second pad be shortened so as to reduce a shrinking force of a portion of the elastic

member when cut off. Applicant again respectfully submits that *Boothe et al.* does not teach or suggest such configuration. *Boothe et al.* clearly describes that the elastic web 22 is received by a given transfer segment 40 while at a constant speed and is applied to the substrate web 28 at a different constant speed.

As such, the combination of the offset drive ring 60 and the pivoting coupler arm 70 of the apparatus 20 of the present invention can provide both the desired changes in speed and the desired periods of constant speed to effectively receive and apply the discrete parts 26 onto the substrate web 28 in the desired spaced apart locations.

[A]n apparatus generally indicated at 20 receives a first substrate web 22 traveling at a first speed in the direction indicated by the arrow 24 associated therewith, severs the first substrate web 22 into discrete parts 26 and applies the discrete parts 26 to a second substrate 28 traveling at a second speed in the direction indicated by the arrow 30 associated therewith.

(Emphasis added; see, e.g., column 10, lines 6-12; and column 5, lines 24-31).

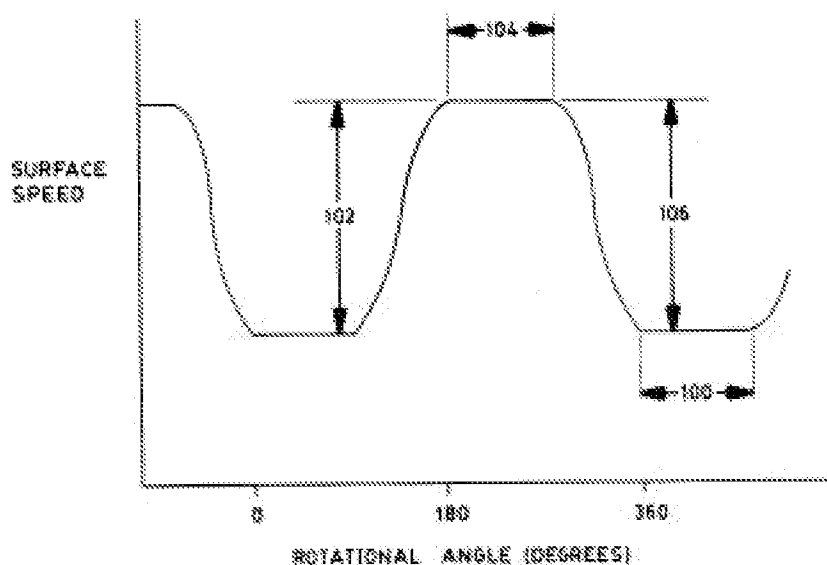


Fig. 3 of Boothe et al.

Fig. 3 of *Boothe et al.* (reproduced above) illustrates the surface speed of a given transfer segment 40. Applying the basic principles of physics, if the adjacent transfer segments 40 are operative to increase the spacing of the discrete elastic segments 26, the speed of the leading transfer segment 40 must increase relative to the speed of the trailing transfer segment 40 in order to increase the spacing. As noted above, the transfer segments 40 receive the elastic web 22 at a first constant speed and apply it to the second substrate at a second constant speed. Therefore, it is clear that the transfer segments 40 must receive the elastic web 22 during the lower constant speed noted at dwell time 100. Upon receiving the elastic web 22 at the lower constant speed (noted by dwell time 100), Fig. 3 clearly shows how the speed of each transfer segment 40 is only increased. More specifically, the speed of each transfer segment 40 is not decreased following the receipt of the elastic web 22.

Accordingly, if each transfer segment 40 follows the speed cycle represented in Fig. 3 wherein each transfer segment 40 receives the elastic web 22 at its lowest constant speed (noted by dwell time 100) as taught in *Boothe et al.*, it is physically impossible for there to be a shortening in the interval between the leading and trailing transfer segments 40 so as to reduce a shrinking force of a portion of the elastic member as recited in claims 1 and 19. The transfer segments 40 only increase in speed relative to one another between the time when the elastic web 22 is received and the discrete elastic segments are deposited on the second substrate 28. The reduction in the interval between the transfer segments 40 occurs only after the elastic web 22 has been applied to the transfer segment 40 during dwell time 100 and applied to the second web 28 during dwell time 104. The Examiner assertion that *clearly the gap is closed or shortened between the first pad and the second pad when the cutting operation is taking place* is simply incorrect.

The Examiner notes in the Office Action that the claims do not require deceleration just prior and through the cutting operation and additionally do not require that a gap or interval be present during the cutting operation. The Examiner thus concludes that the claims are not commensurate in scope with the arguments.

Accepting the Examiner's contentions merely for sake of argument, claim 1 does require that "an interval between the first pad and the second pad is shortened so as to reduce a shrinking force of a portion of the elastic member between the first pad and the second pad". Claim 19 recites that "in the cutting step, the elastic member is cut off after an interval between the first pad and the second pad is shortened." For at least the reasons described above, such configuration is physically impossible as described in *Boothe et al.*

If the Examiner contemplates maintaining the rejection, applicant respectfully requests that the Examiner clarify how such reduction in the interval between the pads prior to the elastic being cut is even possible in *Boothe et al.* in view of the above points.

Applicant notes that the Examiner now raises an issue with respect to whether claims 1 and 19 are entitled to patentable weight with respect to the reduction of the shrinking force in the elastic member. The Examiner acknowledges that such language is recited in claim 1 but contends that the material worked upon (the elastic) is of no patentable weight in the operation. Regarding claim 19, the Examiner notes that shrinking force is not expressly recited in the claim.

However, applicant respectfully notes that such language in claim 1 defines the relative operation between the first and second pads, and therefore does in fact clearly define the invention. Regarding claim 19, applicant believes such feature certainly is inherent by virtue of the elastic member being cut after an interval between the first pad and the second pad is shortened. Furthermore, claim 19 recites that in the cutting step the elastic member is cut off after an interval between the first pad and the second pad is shortened. For the reasons noted above, such operation in the cutting step is impossible in *Boothe et al.*

For at least the above reasons, applicant respectfully requests withdrawal of the rejection of claims 1, 7, 13 and 19.

III. REJECTIONS OF CLAIMS 1-3 AND 7-19 UNDER 35 USC §103(a)

Claims 1-3, 7-15 and 19 also remain rejected under 35 USC §103(a) based on *Boothe et al.* in view of *Ujimoto et al.* Claims 16-18 remain rejected under 35 USC §103(a) based on *Boothe et al.* in view of *Ujimoto et al.*, and further in view of *Beaudoin et al.* and *Ales et al.* Applicant respectfully traverses these rejections for at least the following reasons.

Ujimoto et al., *Beaudoin et al.* and *Ales et al.* do not make up for the above-discussed deficiencies in *Boothe et al.* in relation to claims 1 and 19. Accordingly, even when combined as proposed by the Examiner, the claimed invention does not result.

Applicant respectfully requests withdrawal of the rejections.

IV. CONCLUSION

Accordingly, all claims 1-19 are believed to be allowable and the application is believed to be in condition for allowance. A prompt action to such end is earnestly solicited.

Should the Examiner feel that a telephone interview would be helpful to facilitate favorable prosecution of the above-identified application, the Examiner is invited to contact the undersigned at the telephone number provided below.

Application No.: 10/695,088

Should a petition for an extension of time be necessary for the timely reply to the outstanding Office Action (or if such a petition has been made and an additional extension is necessary), petition is hereby made and the Commissioner is authorized to charge any fees (including additional claim fees) to Deposit Account No. 18-0988.

Respectfully submitted,

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